

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

JOSEPH LONNIE BAKER,

Plaintiff,

v.

LORRIE DAVIS, ET AL.,

Defendants.

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CIVIL ACTION NO. 5:17-CV-00078-RWS

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The Plaintiff Joseph Lonnie Baker, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. § 1983 complaining of alleged violations of his constitutional rights. This Court referred the case to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. The named Defendants are: TDCJ-CID Director Lorie Davis; TDCJ-CID Chaplaincy Director Vance Drum; Assistant Chaplaincy Director Michael Rutledge; Chaplain Clarence Madyun; Warden Joseph Wilson; Chaplain Steven Gibbs; Law Library Supervisor Elroddrick Wells; Access to Courts Program Supervisor Vickie Barrow; Major Wade Alexander; Food Service Manager Mary Morgan; Correctional Officer Sharanda Nutt; and Correctional Officer Haley Smith.

Baker contends his right to practice his Islamic faith has been infringed in various ways. He asserts: (1) he was told on one occasion a meal was chicken, but he later discovered it was pork, which he is prohibited from eating; (2) he cannot order prayer oil from outside vendors because it is sold in the prison commissary, but the oil sold in the commissary is non-Islamic; (3)

he was not allowed to form a Qu'ranic Studies Islamic formation class because there were no outside volunteers available, but Catholics and Protestants are allowed to have classes without outside volunteers; and (4) black nationalistic gangs such as the Nation of Islam and the Moorish Science Temple participate in Islamic services when they should be separated so the other Muslim groups can worship in peace.

Plaintiff also complains: (5) he should be exempted from TDCJ grooming policies so he can grow a fist length beard and wear his Kufi cap throughout the facility; (6) he received disciplinary action for not having all of his books in his locker, but his requests for an additional storage box for his religious books have been denied; and (7) he wants a diet of three halal meals per week, with fish served at the other meals.

The Defendants filed a motion for summary judgment, to which Plaintiff filed a response. After review of the pleadings and the summary judgment evidence, the Magistrate Judge issued a Report recommending the motion for summary judgment be granted and all of the lawsuit except for the challenge to the volunteer policy be dismissed with prejudice. The Magistrate Judge recommended the challenge to the volunteer policy be dismissed without prejudice pending a decision by the Fifth Circuit in *Brown v. Livingston*, slip op. no. 14-20249 (stay granted May 16, 2014).

The Report was entered on August 20, 2018, and Plaintiff received a copy on August 22. He filed a motion for extension of time to object, which was granted to allow objections to be received by September 25, 2018. No timely objections have been filed despite Plaintiff having ample time in which to do so; accordingly, he is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and

adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

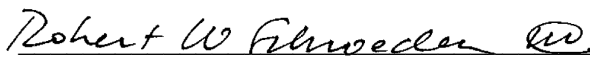
The Court has reviewed the record in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

ORDERED the Report of the Magistrate Judge (Docket No. 36) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED the above-styled civil action is **DISMISSED WITH PREJUDICE**, except that the Plaintiff's claim concerning the validity of the TDCJ-COD volunteer policy is **DISMISSED WITHOUT PREJUDICE** pending a decision by the Fifth Circuit in *Brown v. Livingston*. It is further

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

So ORDERED and SIGNED this 28th day of September, 2018.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE